

If an electronic resale certificate is kept, it should contain all of the information required under 86 Ill. Adm. Code 130.1405. (This is a GIL.)

March 31, 2006

Dear Xxxxx:

This letter is in response to your letter dated January 25, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is in the process of automating the storage and acceptance of resale certificates received from its retail customers. In doing so ABC would implement the following procedures for retailers:

- 1) Retailer will access pertinent contract documents on line when registering with ABC as a retailer thus allowing them to purchase our equipment for resale.
- 2) Retailer will complete either a multi-state resale certificate or a state resale certificate during the application process.
- 3) Once the retailer has completed the resale certificate and all required information has been entered, the retailer would click an 'Accept Terms' button. By clicking on this icon the retailer has agreed to all terms and has provided ABC an electronic signature.
- 4) Once the retailer has accepted the terms, the resale certificate will go through validation rules based upon state requirements. If the validation rules are not followed, the system will return with a message stating that the information provided is not acceptable, please verify the information and re-enter.
- 5) If the information is not accepted by our system, the customer will maintain a taxable status until they provide a valid certificate.

Maintaining resale certificates electronically will allow ABC to conduct audits more efficiently by providing auditors with a disc thus eliminating the need to print or copy all requested resale certificates.

ABC is requesting written advice to determine if such documentation would be acceptable in the event of an audit. Your timely response is greatly appreciated. Should you have additional questions please feel free to contact me at the number listed below.

DEPARTMENT'S RESPONSE

For general information regarding resale certificates, the Department's regulation for resale certificates, "Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale" is found at 86 Ill. Adm. Code 130.1405.

If an electronic resale certificate is kept, it should contain all of the information required under 86 Ill. Adm. Code 130.1405. In regards to the signature requirement, a digital signature would be acceptable. See 5 ILCS 175/5-120. The law allows the Department to look at other evidence in determining the sufficiency of a certificate of resale. Therefore, if a signature is not kept in accordance with the statute, a sale is presumed to be a sale at retail; however, other evidence can rebut this presumption in proving that the sale was in fact for resale. The risk run by companies in accepting such a certification and the risk run by purchasers in providing such a certification is that an Illinois auditor is more likely to go behind a certificate of resale that does not contain a signature and require that more information be provided as evidence that the particular sale was, in fact, a sale for resale.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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